



January 15, 2014

SENATE BILL No. 88

DIGEST OF SB 88 (Updated January 14, 2014 10:58 am - DI ck)

Citations Affected: IC 35-36.

Synopsis: Mental health witnesses in criminal cases. Specifies who may be appointed as a mental health expert in a criminal case.

Effective: July 1, 2014.

Alting

January 7, 2014, read first time and referred to Committee on Rules and Legislative Procedure.

January 14, 2014, amended; reassigned to Committee on Judiciary.

SB 88—LS 6151/DI 13



January 15, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 88

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-36-2-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) At the trial of a
3 criminal case in which the defendant intends to interpose the defense
4 of insanity, evidence may be introduced to prove the defendant's sanity
5 or insanity at the time at which the defendant is alleged to have
6 committed the offense charged in the indictment or information.

7 (b) When notice of an insanity defense is filed **in a case in which**
8 **the state is not seeking a sentence of death or life imprisonment**
9 **without parole**, the court shall appoint two (2) or three (3) competent
10 disinterested:

11 (1) psychiatrists;

12 (2) psychologists endorsed by the state psychology board as
13 health service providers in psychology; or

14 (3) physicians.

15 At least one (1) of ~~whom~~ **the individuals appointed under this**
16 **subsection** must be a psychiatrist ~~to or~~ **psychologist. The individuals**

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1 **appointed under this subsection shall** examine the defendant and ~~to~~
 2 testify at the trial. This testimony shall follow the presentation of the
 3 evidence for the prosecution and for the defense, including **the**
 4 testimony of any ~~medical~~ **mental health** experts employed by the state
 5 or by the defense.

6 **(c) When notice of an insanity defense is filed in a case in which**
 7 **the state is seeking a sentence of death or life imprisonment**
 8 **without parole, the court shall appoint two (2) or three (3)**
 9 **competent disinterested:**

10 (1) psychiatrists;

11 (2) psychologists endorsed by the state psychology board as
 12 health service providers in psychology; or

13 (3) physicians;

14 **who have expertise in determining insanity. Not more than one (1)**
 15 **individual appointed under this subsection may be a physician who**
 16 **is not a psychiatrist or psychologist. The individuals appointed**
 17 **under this subsection shall examine the defendant and testify at the**
 18 **trial. This testimony must follow the presentation of the evidence**
 19 **for the prosecution and for the defense, including the testimony of**
 20 **any mental health experts employed by the state or by the defense.**

21 ~~(c)~~ **(d)** If a defendant does not adequately communicate, participate,
 22 and cooperate with the ~~medical~~ **mental health** witnesses appointed by
 23 the court after being ordered to do so by the court, the defendant may
 24 not present as evidence the testimony of any other ~~medical~~ **mental**
 25 **health** witness:

26 (1) with whom the defendant adequately communicated,
 27 participated, and cooperated; and

28 (2) whose opinion is based upon examinations of the defendant;
 29 unless the defendant shows by a preponderance of the evidence that the
 30 defendant's failure to communicate, participate, or cooperate with the
 31 ~~medical~~ **mental health** witnesses appointed by the court was caused by
 32 the defendant's mental illness.

33 ~~(d)~~ **(e)** The ~~medical~~ **mental health** witnesses appointed by the court
 34 may be cross-examined by both the prosecution and the defense, and
 35 each side may introduce evidence in rebuttal to the testimony of ~~such~~
 36 a ~~medical~~ **mental health** witness.

